

*rec'd at Santa Barbara
stoping meeting
8/15/00 afternoon
session*

To: Field Supervisor Ventura Fish and Wildlife Office
Ventura, Ca.

From: Leonard Marcus, Suhac, CAA, and CFSB
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Subject: Rebuttal of Biological Opinion

The Biological Opinion contains many inaccuracies and falsehoods which I am going to point out.

1. In the winters of 1997-98 and 1998-99, southern sea otters moved into the management zone in numbers that were much greater than had previously occurred during the preceding 11 years of the translocation program.

While the above statement is true, it is not true that this was not anticipated by the Service. "In 1987, The Service(1987b) predicted that Southern Sea Otter may reach Point Conception within 10 to 20 years and noted that Public Law 99-625 required the removal of these animals from the management zone."** Section 1b 4(B) of Public Law 99-625 provides that the purpose of the management zone is to "facilitate the management of (southern) sea otter and the containment of the experimental population within the translocation zone, and to prevent, to the maximum extent feasible, conflict with other fishery resources within the management zone by the experimental population." "The containment program was intended to prevent southern sea otters from dispersing from and becoming established at sites that were outside of the translocation zone and outside of the parent range (i.e. the management zone)."*** The translocation plan (appendix B in Service 1987a) notes that if problems in maintaining the management zone free of (southern sea) otters were related to pressures exerted by growth and expansion of the donor (i.e., the parent) population, it may be possible to alleviate such pressure by implementing an experimental population thinning concept in the area immediately north of Point Conception and Point Arguello." ***From these quotes it is obvious the Service knew this could happen, had a clear mandate from Congress as to what to do. The Service never made an effort to accomplish containment. I believe this is because this Law was merely a compromise on paper which the Service never intended to implement.

2. Analysis of carcasses has shown that southern sea otters are being exposed to environmental contaminants and diseases which could be affecting the health of the population.

Since municipal pollution, nuclear waste dumps, coastal toxic waste dumps such as the DDT toxic waste dump off Los Angeles, mercury intrusion from old mines, and agricultural runoff are facts of life that do need addressing, other government agencies need to become involved in addressing these fundamental issues which affect the health of the ocean. Without addressing these key issues regarding water quality, spreading more otters over a larger area will only produce more unhealthy otters, and will not help with their survival.

*page 17 paragraph 1 of biological draft ; **page 8 paragraph 2 of biological draft; *** page 8 paragraph 4 of biological draft

3. The number of southern sea otters has been declining based on information obtained from regular surveys.

In the fall of 1987, when the final environmental impact statement for Public Law 99-625 was written, there were 1,307 otters surveyed; in 1995, 2,377 otters were surveyed; and in April of 2000, 2,317 otters were surveyed. The April 2000 survey number was lower than the 1995 number, but the "decline" is not statistically significant, and the April 2000 number is a significantly higher than the 1987 count; this constitutes an increase, not a decline. While it is true that the greatest number of animals surveyed was in 1995, no mention is made in the draft of the extreme El Nino event which was occurring during these anomalous surveys. According to the biological draft "the surveys provide a count of the number of individuals that are in the population at a given time; the accuracy of the counts is affected by numerous factors, such as weather, the condition of the ocean, and the amount of kelp present."* It is worth noting that both drops in otter population surveys occurred during major El Nino events, major weather events which the Service says effects the accuracy of their surveys. These "declines" were just the natural consequences of the El Nino events and the difficulty of surveying populations during these major events.

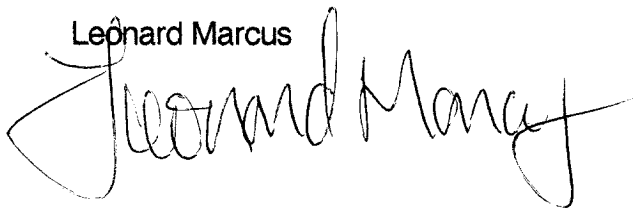
4. More recent information indicates that southern sea otters at San Nicholas Island may not be isolated from the potential effects of a single, large oil spill. Consequently a larger range occupied by Southern sea otters along the mainland coast is important for their protection.

"The (southern) sea otter was listed as threatened in 1977 (42 federal register 2965); critical habitat was not designated. The factors leading to the listing included increased tanker traffic and the potential for oil spills, municipal pollution, and increased harassment caused by increased use of near-shore areas for a variety of human activities." It is unfortunate that, 23 years later, the obvious protective measure of moving tanker traffic outside of the coast is still only at the dialog stage. Another obvious solution is to allow only double hulled tankers in this new corridor. This would virtually eliminate the threat of an oil spill coming from a tanker. While there would still be the risk of a spill from a platform, even a major spill such as that which occurred in the Santa Barbara Channel in 1969 didn't effect even 50 miles of coast. Consequently, it is virtually impossible for the parent and the experimental populations to be effected at the same time.

5. Given that the population along the mainland has been declining the capture and release of large numbers of southern sea otters may have adverse effects that were not considered in the original biological opinion.

Since your own data disputes a decline in the population and given that the Service is given great latitude in dealing with the parent population which is entering the management zone, this doesn't appear to be an issue.

Leonard Marcus

A handwritten signature in cursive script, appearing to read 'Leonard Marcus', written in black ink.

*page 18 paragraph 5 of biological draft